



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, Ca. 94105-3901

CERTIFIED MAIL - See Attached  
RETURN RECEIPT REQUESTED

To: Addressees

Re: Order No. 92-21 pursuant to 42 U.S.C. Section 9606  
SJOB Plating, 612 Martin Luther King Boulevard, Las  
Vegas, Nevada

Dear Addressees:

The United States Environmental Protection Agency (EPA) hereby issues written notice that each of you is a potentially responsible party under Section 107 of the Comprehensive, Environmental Response, Compensation and Reauthorization Act of 1986, 42 U.S.C. 9601, et seq, (CERCLA). EPA has determined that there may be an imminent and substantial endangerment to the public health, welfare, and environment because of the release or threatened release of hazardous substances at SJOB Plating located at 612 Martin Luther King Boulevard, Las Vegas, Nevada ("the Site").

The enclosed Order is issued by the United States Environmental Protection Agency, pursuant to Section 106 of CERCLA, 42 U.S.C. Section 9606, to prevent or mitigate immediate and significant risk of harm to human health and the environment. The Order requires all of you to take immediate actions to contain and prevent the release or potential release of hazardous substances at the Site.

If EPA is unable to reach an agreement with you regarding your performance of the removal activities specified in the Order, EPA will conduct these removal actions itself and as a potentially responsible party you may be liable for all EPA incurred costs.

If you have any technical questions regarding the Order, please contact Richard Martyn at (415) 744-2288. Legal questions, may be directed to Lewis Maldonado at (415) 744-1342.

Sincerely,

*Keith Takak*

*for* Jeff Zelikson  
Hazardous Waste Management Division

-2-

**Enclosure**

cc: Paul Adras, Nevada Environmental Protection Agency  
Jim Devlin, Industrial Waste Treatment, City of Las Vegas

The attached order has been delivered to the following entities:

1. Dennis W. Newberry, Trustee P 424 455 017  
2800 Pinto Lane  
Las Vegas, NV 89107
2. Hugh A. Newberry, Trustee P 424 455 018  
2800 Pinto Lane  
Las Vegas, NV 89107
3. Dennis W. Newberry, Trustee P 424 455 019  
C/O Adobe Electric  
4360 W. Tompkins Avenue, Suite C  
Las Vegas, NV 89103
4. Rudy Sjobakken P 424 455 020  
2039 Civic Center Drive #116  
North Las Vegas, NV 89030
5. Linda Sjobakken P 424 455 021  
2039 Civic Center Drive #116  
North Las Vegas, NV 89030



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, Ca. 94105-3901

IN THE MATTER OF:

Order No. 92-21

SJOB Plating  
612 Martin Luther King Blvd.  
Las Vegas, Nevada 89106

) ADMINISTRATIVE ORDER  
) PURSUANT TO SECTION 106  
) OF THE COMPREHENSIVE  
) ENVIRONMENTAL RESPONSE  
) COMPENSATION AND  
) LIABILITY ACT OF 1980  
) as amended, 42 U.S.C.  
) Section 9606(a)

SJOB Plating

Rudy Sjobakken

Linda Sjobakken

The Newberry Family Trust

Hugh A. Newberry, Trustee

Dennis W. Newberry, Trustee

Respondents

PREAMBLE

1. This Administrative Order (Order) is issued on this date to the Respondents, pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 (CERCLA), delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, further delegated to the EPA Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and further redelegated to the Director, Hazardous Waste Management Division by Region IX Delegations 1290.41 and 1290.42.

2. The State of Nevada has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

3. This Order requires the Respondents to undertake and complete removal activities to abate an imminent and substantial endangerment to the public health and welfare or the environment that may be presented by the actual or threatened release of hazardous substances.

1 FINDINGS OF FACT  
2

3 Based on available information, including the Administrative  
4 Record in this matter, U.S. EPA hereby finds:

5 4. Site Description/Location

6 SJOB Plating operated an electroplating business  
7 that primarily serviced small customers such as motorcycles,  
8 antique cars, and one-of-a-kind items. Operations consisted of  
9 cadmium, copper, nickel, chromium, brass, gold, and silver  
10 plating.

11 SJOB Plating is located at 612 Martin Luther King  
12 Boulevard, Las Vegas, Nevada, ("the Site"). This privately owned  
13 parcel of land and buildings thereon are the subject of this  
14 Administrative Order issued by U.S. EPA.

15 The Site is located in a mixed residential and  
16 industrial setting. Residential areas are present to the  
17 northeast, northwest, and west. The United Parcel Services (UPS)  
18 complex borders on the north and a gas station abuts the site to  
19 the south. South of the Site and running east to west lies the  
20 interstate 15 and highways 93 and 95 complex. Across the street  
21 and west of the Site, lies a vacant lot, while a convenience  
22 store and gas station are located on the southwest corner.

23 Las Vegas is a community of approximately 800,000  
24 people. Located within a mile of the Site are Our Lady of  
25 Lourdes School, University Medical Center, and Valley Hospital.  
26 A police sub-station and numerous city and county buildings are  
27 located within a mile and a half of the Site.

28 The SJOB Plating building includes an office area,  
29 empty plating tanks, a sump, plating lines, and polishing and  
30 grinding areas. The building is approximately 3,000 square feet  
31 with cinder block walls, wooden framed ceilings, and a four-inch  
32 thick concrete foundation. The building is approximately 20  
33 years old and is in various stages of deterioration.

34 The exterior yard is located east of the plating  
35 shop. The dirt and gravel covered yard is approximately 6,000  
36 square feet. There is a considerable amount of junk and debris  
37 scattered throughout the yard. There are a wastewater treatment  
38 system, discarded vats and drums, wooden pallets, scrap metal,  
39 and garbage. The drums and containers contain waste solids,  
40 cyanides, acids, sludges, cadmium, and unknown materials, and are  
41 scattered throughout the yard.

1                   Site security is inadequate. Though the yard is  
2 fenced and the front gate locked, recent breakins are alleged to  
3 have occurred and drums of plating solutions taken.

4  
5                   5.   Respondents

6                   SJOB Plating located at 612 Martin Luther King  
7 Boulevard, Las Vegas, Nevada, is an electroplating business which  
8 operated from 1986 until its operations ceased in 1991. Rudy  
9 Sjobakken and Linda Sjobakken were the operators of SJOB Plating.

10                  The Newberry Family Trust holds title to the  
11 property on which SJOB Plating is located. Dennis W. Newberry  
12 and Hugh A. Newberry are the acting trustees. Rudy Sjobakken and  
13 Linda Sjobakken, the operators of SJOB Plating, had a lease  
14 agreement with Albert Newberry, originator of the trust, until  
15 SJOB Plating was closed by local regulatory authorities in  
16 December, 1991.

17                  SJOB Plating, The Newberry Family Trust, Dennis W.  
18 Newberry, Hugh A. Newberry, Rudy Sjobakken, and Linda Sjobakken  
19 are jointly referred to herein as Respondents.

20                  6.   Incident/Release Characteristics

21                  In July, 1992, the Nevada Environmental Protection  
22 Agency (NV EPA) requested assistance from the Emergency Response  
23 Section (ERS) of the U.S. EPA to conduct an assessment of the  
24 Site. ERS conducted a Site visit on July 28 and July 29, 1992.  
25 Initial sampling indicated containers of cyanide and chromic acid  
26 and many containers of unknown materials. A small dirt portion  
27 in the exterior yard contained visibly stained soil, vegetation  
28 is visibly stressed. Heavy metals and liquids were found in the  
29 sump with lines leading to a public sewer.  
30

31                  7.   Quantities and Types of Substances Present

32                  There are approximately 140 drums and containers  
33 of waste and spent plating solutions, product material, and  
34 unknown materials in the exterior yard area. Most drums were not  
35 labeled. Sample analysis revealed that the contents of the drums  
36 were contaminated with high levels of nickel, copper, selenium,  
37 and cyanide. One drum contained cadmium. Acids, cyanides,  
38 caustics, and oxidizing acids were found in drums located in the  
39 plating shop and exterior yard.  
40

41                  8.   Threats to Public Health and Welfare

42                  The substances of concern are nitric acid,  
43 sulfuric acid, hydrochloric acid, chromic acid, sodium cyanide,

1 aluminum hydroxide, sodium hydroxide, chromium, nickel, copper,  
2 zinc, and cadmium.

3 Nitric acid is a corrosive material which can burn  
4 the skin, eyes, and respiratory tract upon direct contact or  
5 inhalation of vapors. It can cause acute pulmonary edema or  
6 chronic pulmonary diseases from inhalation. When heated or  
7 reacted with water, it produces toxic and corrosive fumes.

8 Sulfuric acid is extremely hazardous to health and  
9 is corrosive to all body tissues. Inhalation of the vapor may  
10 cause serious lung damage. Contact with eyes may result in total  
11 loss of vision. Skin contact may produce severe necrosis.

12 Hydrochloric acid is a strong corrosive which can  
13 burn the skin, eyes, and mucous membranes upon dermal contact.  
14 It is also moderately irritating to the respiratory tract when  
15 inhaled. Hydrochloric acid produces toxic and corrosive fumes  
16 when exposed to water.

17 Chromic acid is corrosive to metals and tissue.  
18 It can react with combustible materials and the heat produced by  
19 the reaction may be sufficient to ignite the combustible  
20 materials. A fire may produce irritating or poisonous gases.

21 Cyanides, such as sodium cyanide and copper  
22 cyanide in liquid or solid form and hydrogen cyanide in the  
23 gaseous form, are poisons. Exposure to cyanides may be fatal if  
24 inhaled, swallowed or absorbed through the skin. Their manner of  
25 storage poses special risks because they can potentially come  
26 into contact with incompatible materials, such as strong acids  
27 which are stored nearby. Should cyanides come into contact with  
28 a strong acid, such as nitric or hydrochloric acid, a release of  
29 hydrogen cyanide would occur. Releases of hydrogen cyanide  
30 gas would be life-threatening to individuals exposed to the gas.  
31 Mixtures of cyanides and strong oxidizers, such as nitric and  
32 hydrochloric acids, present both fire and explosion hazards.

33 Chromium is a suspected Occupational Safety and  
34 Health Act (OSHA) human carcinogen. Chronic exposure to chromate  
35 dust may cause bronchogenic carcinoma. Chromium is a poison and,  
36 when ingested, causes deleterious gastrointestinal effects.

37 Nickel dust or fume is a respiratory irritant that  
38 with chronic exposure may cause nasal or lung cancer in humans.  
39 The average latency period for the induction of cancer appears to  
40 be 25 years. Acute exposure to nickel fumes or copper dusts can  
41 cause upper respiratory tract irritation, metal fume fever,  
42 nausea, vomiting, and abdominal pains.

#### 43 9. Threats to the Environment

1 Further runoff of contaminants into the soil as a  
2 result of the wastewater treatment system and a pit sump which  
3 led to a sewer connection under the building pose a potential  
4 threat to groundwater resources and the environment.

5  
6 There is a high potential for soil contamination  
7 beneath the plating shop building and adjacent properties due to  
8 an apparent breach in the subfloor containment. Contaminant  
9 migration to underlying soils may be extensive.

10 A potential threat to surface waters exists due to  
11 the leakage of hazardous substances into the underlying soils  
12 near the sewer placements. Contaminants could migrate or leach  
13 into old sewer lines through cracks, fissures, and unsealed  
14 joints and ultimately contaminate surface waters located beyond  
15 the immediate Site vicinity.

#### 16 CONCLUSIONS OF LAW

17 Based on the foregoing Findings, U.S. EPA has concluded  
18 that:

19 10. The SJOB Plating Site, located at 612 Martin  
20 Luther King Boulevard, Las Vegas, Nevada is a "facility" as  
21 defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).  
22

23 11. Each named Respondent is a "person" as defined by  
24 Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).  
25

26 12. The Respondents the Newberry Family Trust, Dennis  
27 W. Newberry and Hugh A. Newberry trustees are the present  
28 "owners" of the Site as defined by Section 101(20) of CERCLA, 42  
29 U.S.C. Section 9601(20).  
30

31 13. The Respondents Rudy Sjobakken, Linda Sjobakken,  
32 are prior "operators" of SJOB Plating as defined by Section  
33 101(20) of CERCLA, 42 U.S.C. Section 9601(20)

34 14. Each Respondent is therefore a liable person under  
35 Section 107(a) of CERCLA, 42 U.S.C. Section 9607.

36 15. Nitric acid, sulfuric acid, hydrochloric acid,  
37 chromic acid, sodium cyanide, hydrogen cyanide, sodium hydroxide,  
38 chromium, nickel, copper, and cadmium are "hazardous substances"  
39 as defined by Section 101(14) of CERCLA, 42 U.S.C. Section  
40 9601(14), and Section 302.4 of the National Contingency Plan  
41 (NCP), 40 CFR Part 300.

42 16. The presence of nitric acid, sulfuric acid,  
43 hydrochloric acid, chromic acid, sodium cyanide, hydrogen  
44 cyanide, sodium hydroxide, chromium, nickel, copper, and cadmium



1 constitutes an actual or threatened "release" as that term is  
2 defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).

3 DETERMINATIONS

4 Based on the Findings of Fact and Conclusions of Law, the  
5 Director, Hazardous Waste Management Division, EPA Region IX, has  
6 made the following determinations:

7 17. The actual or threatened release of hazardous  
8 substances from the Facility may present an imminent and  
9 substantial endangerment to the public health, welfare, or the  
10 environment.

11 18. The actions required by this Order, if properly  
12 performed, are consistent with the National Contingency Plan  
13 (NCP), 40 CFR Part 300 and CERCLA; and are appropriate to protect  
14 the public health, welfare, or the environment.

15 19. The conditions present at the Site constitute a  
16 threat to public health, welfare, or the environment based upon  
17 consideration of the factors set forth in the NCP at 40 CFR  
18 section 300.415(b). These factors include, but are not limited  
19 to, the following:

20 a. Actual or potential exposure to hazardous substances  
21 by nearby populations, animals, or food chain;  
22

23 This factor is present due to the existence of a serious threat  
24 of an uncontrolled reaction between highly incompatible and  
25 acutely toxic chemicals. Quantities of acid and cyanide  
26 solutions lie in close proximity to each other. The mixing of  
27 acids and cyanides in a spill would result in a hydrogen cyanide  
28 gas release that would produce a potentially lethal release in a  
29 populated area.

30 b. Actual or potential contamination of drinking water  
31 supplies or sensitive ecosystems;

32 This factor is present due to the suspected existence of soil  
33 contamination beneath the plating shop. The extent and magnitude  
34 of soil contamination is not yet known.

35 c. Hazardous substances in drums, barrels, tanks, or other  
36 bulk storage containers, that may pose a threat of  
37 release;

38 This factor is present due to drums and containers that have been  
39 stored in the plating shop and exterior yard for several years.  
40 Several drums contain cyanide and acids. A combination of these  
41 chemicals in a spill can generate a lethal hydrogen cyanide  
42 release. The heat of the reaction when acids combine with

combustible material can cause a fire, and a subsequent toxic gas release.

- d. High levels of hazardous substances in soils largely at or near the surface that may migrate;

This factor is present due to the suspected contamination beneath the plating shop floor. Poor waste management practices as well as illegal and indiscriminate dumping activities may have contributed to soil contamination. There is a high potential for extensive soil contamination in the exterior yard. This contamination could migrate to adjacent properties or to groundwater sources.

- e. Weather conditions that may cause hazardous substances to migrate or be released;

This factor is present due to an exterior yard which has barren soils and is virtually devoid of vegetation. High winds could disperse contamination into neighboring residential areas. Rainfall could percolate into the exposed soils, causing the contaminants to migrate into the groundwater.

- f. Threat of fire or explosion;

This factor is present due to the non-segregation of acids and bases, and acids, oxidizers, and or reactive chemicals.

- g. The unavailability of other appropriate Federal or State response mechanisms to respond to the release;

This factor supports the actions required by this Order because the State has informed the On-Scene Coordinator that it is unable to conduct short-term site stabilization or other removal activities.

#### ORDER

Based upon the foregoing Findings, Conclusions, and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby Ordered that the Respondents undertake the following actions under the direction of EPA's On-Scene Coordinator.

20. Upon receipt of this Order, the Respondents shall provide twenty-four (24) hour security at the Site which meets with EPA approval.

21. The Respondents shall restrict access to the Site and shall not allow any materials, equipment, or any other item to be removed from the Site without prior EPA approval.

1           22. Within twenty-one (21) calendar days after the  
2 effective date of this Order, the Respondents shall submit to  
3 U.S. EPA for approval, a Work Plan for the removal activities  
4 ordered as set forth in Paragraph 6 below. The Work Plan shall  
5 provide a concise description of the activities to be conducted  
6 to comply with the requirements of this Order, and shall include  
7 a proposed schedule for implementing and completing the  
8 activities. The Work Plan shall be reviewed by U.S. EPA, which  
9 may approve, disapprove, require revisions, or modify the Work  
10 Plan. The Respondents shall implement the Work Plan as finally  
11 approved by U.S. EPA. Once approved, the Work Plan shall be  
12 deemed to be incorporated into and made a fully enforceable part  
13 of this Order.

14           23. The Work Plan shall contain a site safety and  
15 health plan, a sampling and analysis plan, and a schedule of the  
16 work to be performed. The site safety and health plan shall be  
17 prepared in accordance with EPA's Standard Operating Safety  
18 Guide, dated November, 1984, and updated July, 1988, and with the  
19 Occupational Safety and Health Administration (OSHA) regulations  
20 applicable to Hazardous Waste Operations and Emergency Response,  
21 29 CFR Part 120. The Work Plan and other submitted documents  
22 shall demonstrate that the Respondents can properly conduct the  
23 actions required by this Order.

24           24. The Respondents shall retain an environmental  
25 contractor qualified to undertake and complete the requirements  
26 of this Order, and shall notify U.S. EPA of the name of such  
27 contractor within five (5) days of the effective date of this  
28 Order. U.S. EPA retains the right to disapprove of any, or all,  
29 of the contractors and/or subcontractors retained by the  
30 Respondents. In the event U.S. EPA disapproves of a selected  
31 contractor, the Respondents shall retain a different contractor  
32 to perform the work, and such selection shall be made within five  
33 (5) business days following U.S. EPA's disapproval.

34           25. Within five (5) calendar days after U.S. EPA  
35 approval of the Work Plan, the Respondents shall implement the  
36 Work Plan as approved or modified by U.S. EPA. Failure of any  
37 Respondent to properly implement all aspects of the Work Plan  
38 shall be deemed to be a violation of the terms of this Order.  
39 The Work Plan shall require the Respondents to perform, and  
40 complete within sixty (60) calendar days after approval, at a  
41 minimum, the following removal activities:

- 42           a. Provide 24-hr security during removal operations.
- 43           b. Sample and characterize all containerized materials.
- 44
- 45           c. Perform air monitoring and sampling in accordance with  
46 OSHA requirements during all phases of the removal action,  
47 whenever there is a potential for airborne releases of toxic air

1 contaminants. Operational controls such as dust contaminant  
2 and/or suppression should be used to abate fugitive dust  
3 emissions.

4 d. Remove non-hazardous equipment and debris to provide  
5 adequate space for response operations.

6 e. Prepare all hazardous substances for proper  
7 transportation for disposal, or where feasible, alternative  
8 treatment or reuse/recycle options. The above may include  
9 bulking of compatibles, direct shipment for reuse,  
10 recontainerization of materials into Department of Transportation  
11 specification containers, lab packing small quantities,  
12 solidifications of liquid wastes, and neutralization or other on-  
13 site treatment of wastes.

14 f. Remove grossly contaminated equipment, structures and  
15 debris for proper disposal. Decontaminate structures to non-  
16 hazardous levels and minimize the volume of hazardous wastes.  
17 This may include the partial, or even total, demolition of the  
18 building in order to permit access to areas of contamination.

19 g. Conduct surface and subsurface soil sampling to  
20 determine the nature of the contamination.

21  
22 h. Sample and inspect the on-site sump for structural  
23 integrity. Seal the sump if required by U.S. EPA.

24 i. Dispose of or stabilize contaminated soils found on or  
25 near the surface.

26  
27 26. The Respondents shall provide EPA with written  
28 weekly summary reports. These reports should contain a summary  
29 of the previous week's activities and planned up-coming events.  
30

31 27. EPA shall be informed at least forty-eight (48)  
32 hours prior to any on-Site work.

33 28. All sampling and analysis shall be consistent with  
34 the "Quality Assurance/Quality Control Guidance for Removal  
35 Activities": "Sampling QA/QC Plan and Data Validation  
36 Procedures," EPA OSWER Directive 9360.4-01, dated April, 1990.

37 29. Any hazardous substance, pollutant, or contaminant  
38 transferred off-Site as a result of this Order must be taken to a  
39 facility acceptable under the EPA Off-Site Policy (OSWER  
40 Directive 9834.11, November 13, 1987) in accordance with CERCLA  
41 Section 121(d)(3), 42 U.S.C. §9621(d)(3), the Resources  
42 Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. Section  
43 9601, et seq, as amended, and all other applicable Federal,  
44 State, and local requirements.

1           30. On or before the effective date of this Order, the  
2 Respondents shall designate a Project Coordinator. To the  
3 greatest extent possible, the Project Coordinator shall be  
4 present on site or readily available during site work. The U.S.  
5 EPA has designated Richard Martyn as its On-Scene Coordinator.  
6 The On-Scene Coordinator and the Project Coordinator shall be  
7 responsible for overseeing the implementation of this Order. To  
8 the maximum extent possible, communication between the  
9 Respondents and the U.S. EPA, and all documents, reports, and  
10 approvals, and all other correspondence concerning the activities  
11 relevant to this Order, shall be directed through the On-Scene  
12 Coordinator and the Project Coordinator.

13           31. The U.S. EPA and the Respondents shall each have  
14 the right to change their respective designated On-Scene  
15 Coordinator or Project Coordinator. U.S. EPA shall notify the  
16 Respondents, and Respondents shall notify U.S. EPA, as early as  
17 possible before such a change is made, but in no case less than  
18 24 hours before such a change. Notification may initially be  
19 verbal, but shall promptly be reduced to writing.

20           32. The U.S. EPA On-Scene Coordinator shall have the  
21 authority vested in an On-Scene Coordinator by the NCP, 40 CFR  
22 Part 300, as amended, including the authority to halt, conduct,  
23 or direct any work required by this Order, or to direct any other  
24 response action undertaken by U.S. EPA or the Respondents at the  
25 facility.

26           33. No extensions to the above time frames shall be  
27 granted without sufficient cause. All extensions must be  
28 requested, in writing, and shall not be deemed accepted unless  
29 approved, in writing, by U.S. EPA.

30           34. All instructions by the U.S. EPA On-Scene  
31 Coordinator or his designated alternate shall be binding upon the  
32 Respondents as long as those instructions are not clearly  
33 inconsistent with the National Contingency Plan.

34           35. To the extent that the Facility, or other areas  
35 where work under this Order is to be performed is owned by, or in  
36 possession of, someone other than the Respondents, the  
37 Respondents shall obtain all necessary access agreements. In  
38 the event that after using their best efforts any Respondent is  
39 unable to obtain such agreements, the Respondent shall  
40 immediately notify U.S. EPA.

41           36. The Respondents shall provide access to the  
42 Facility to U.S. EPA employees, contractors, agents, and  
43 consultants at reasonable times, and shall permit such persons to  
44 be present and move freely in the area in order to conduct  
45 inspections, including taking photographs and videotapes of the  
46 Facility, to do cleanup/stabilization work, to take samples to

1 monitor the work under this Order, and to conduct other  
2 activities which the U.S. EPA determines to be necessary.

3 37. Nothing contained herein shall be construed to  
4 prevent U.S. EPA from seeking legal or equitable relief to  
5 enforce the terms of this Order, or from taking other legal or  
6 equitable action as it deems appropriate and necessary, or from  
7 requiring the Respondents in the future to perform additional  
8 activities pursuant to CERCLA, 42 U.S.C. Section 9601, et seq.,  
9 or any other applicable law.

10 38. The provisions of this Order and the directions of  
11 the On-Scene Coordinator shall be binding on the employees,  
12 agents, successors, and assigns of the Respondents.

13 39. Except where this Order specifically provides  
14 otherwise, its obligations shall be effective five (5) calendar  
15 days following issuance unless a conference is requested as  
16 provided herein. If a conference is requested, this Order shall  
17 be effective on the fifth (5) calendar day following the day  
18 of the conference unless modified in writing by U.S. EPA.

19 40. On or before five (5) calendar days after the  
20 effective date of this Order, the Respondents shall provide  
21 notice, verbally or in writing, to U.S. EPA stating their  
22 intention to comply with the terms of this Order. Verbal  
23 notification must be followed in writing within five (5) calendar  
24 days. In the event any Respondent fails to provide such notice,  
25 that Respondent shall be deemed not to have complied with the  
26 terms of this Order.

27 41. The Respondents shall retain copies of all records  
28 and files relating to hazardous substances found on the site for  
29 six (6) years following completion of the activities required by  
30 this Order and shall make them available to the U.S. EPA prior to  
31 the termination of the removal activities under this Order.

32 42. The Respondents shall submit a final report  
33 summarizing the actions taken to comply with this Order. The  
34 report shall contain, at a minimum: identification of the  
35 facility, a description of the locations and types of hazardous  
36 substances encountered at the facility upon the initiation of  
37 work performed under this Order, a chronology and description of  
38 the actions performed (including both the organization and  
39 implementation of response activities), a listing of the  
40 resources committed to perform the work under this Order  
41 (including financial, personnel, mechanical and technological  
42 resources), identification of all items that affected the actions  
43 performed under the Order and discussion of how all problems were  
44 resolved, a listing of quantities and types of materials removed  
45 from the facility, a discussion of removal and disposal options  
46 considered for any such materials, a listing of the ultimate

1 destination of those materials, and a presentation of the  
2 analytical results of all sampling and analysis performed and  
3 accompanying appendices containing all relevant paperwork accrued  
4 during the action (e.g., manifests, invoices, bills, contracts,  
5 permits). The final report shall also include an affidavit from  
6 a person who supervised or directed the preparation of that  
7 report. The affidavit shall certify under penalty of law that  
8 based on personal knowledge and appropriate inquiries of all  
9 other persons involved in preparation of the report, the  
10 information submitted is true, accurate, and complete to the best  
11 of the affiant's knowledge and belief. The report shall be  
12 submitted within thirty (30) days of completion of the work  
13 required by the U.S. EPA.

14 43. All notices, reports, and requests for extensions  
15 submitted under terms of this Order shall be sent by certified  
16 mail, return receipt requested, and addressed to the following:  
17

18 one copy Richard Martyn  
19 On-Scene Coordinator (H-8-3)  
20 75 Hawthorne Street  
21 San Francisco, CA 94105  
22 (415) 744-2288  
23

24 one copy Lewis Maldonado  
25 Assistant Regional Counsel (RC-3-2)  
26 75 Hawthorne Street  
27 San Francisco, CA 94105  
28 (415) 744-1342

29 44. If any provision of this Order is deemed invalid  
30 or unenforceable, the balance of this Order shall remain in full  
31 force and effect.

32 ACCESS TO ADMINISTRATIVE RECORD

33 45. The Administrative Record supporting the selection  
34 of the response action for this site is available for review on  
35 normal business days between the hours of 9:00 a.m. and 5:00 p.m.  
36 in the Office of Regional Counsel, United States Environmental  
37 Protection Agency, Region IX, 75 Hawthorne Street, 16th Floor,  
38 San Francisco, California. Please contact Lewis Maldonado,  
39 Assistant Regional Counsel, at (415) 744-1342 to review the  
40 Administrative Record.

41 OPPORTUNITY TO CONFER

42 46. With respect to the actions required above, the  
43 Respondents may within three (3) calendar days after issuance of  
44 this Order, request a conference with the U.S. EPA. Any such  
45 conference shall be held within three (3) calendar days from the  
46 date of request unless extended by mutual agreement of the

1 parties. At any conference held pursuant to the request, the  
2 Respondents may appear in person, or be represented by an  
3 attorney or other representative. If any Respondent desires such  
4 a conference, the Respondent shall contact Lewis Maldonado,  
5 Assistant Regional Counsel, at (415) 744-1342.

6 47. If such a conference is held, the Respondents may  
7 present any evidence, arguments or comment regarding this Order,  
8 its applicability, any factual determinations upon which the  
9 actions Order is based, the appropriateness of any action which  
10 the Respondents are ordered to take, or any other relevant and  
11 material issue. Any such evidence, arguments or comments should  
12 be reduced to writing and submitted to U.S. EPA within three (3)  
13 calendar days following the conference. If no conference is  
14 requested, any such evidence, arguments or comments must be  
15 submitted in writing within three (3) calendar days following the  
16 effective date of this Order. Any such writing should be  
17 directed to Lewis Maldonado, Assistant Regional Counsel, at the  
18 address cited above.

19 48. The Respondents are hereby placed on notice that  
20 U.S. EPA will take any action which may be necessary in the  
21 opinion of U.S. EPA for the protection of public health and  
22 welfare and the environment, and Respondents may be liable under  
23 Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the  
24 costs of those government actions.

#### 25 PENALTIES FOR NONCOMPLIANCE

26 49. The Respondents are advised pursuant to Section  
27 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful  
28 violation or subsequent failure or refusal to comply with this  
29 Order, or any portion thereof, may subject the Respondents to a  
30 civil penalty of up to \$25,000 per day for each day in which such  
31 violation occurs, or such failure to comply continues. Failure  
32 to comply with this Order, or any portion thereof, without  
33 sufficient cause may also subject the Respondents to liability  
34 for punitive damages in an amount three times the amount of  
35 any cost incurred by the government as a result of the failure of  
36 the Respondents to take proper action, pursuant to Section  
37 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

#### 38 COMPLIANCE WITH OTHER LAWS

39 50. The Respondents shall comply with all applicable  
40 federal, state, and local laws and regulations in carrying out  
41 the terms of this Order. As indicated above, all hazardous  
42 substances removed from the Site must be handled in accordance  
43 with the Resource Conservation and Recovery Act of 1976, 42  
44 U.S.C. Section 6921, et seq., the regulations promulgated under  
45 that Act, and Section 121(d)(3) of CERCLA, 42 U.S.C. Section  
46 9621(d)(3).



1                                    ENDANGERMENT DURING IMPLEMENTATION

2                    51. The Director, Hazardous Waste Management Division,  
3 EPA Region 9, may determine that acts or circumstances (whether  
4 related to or unrelated to this Order) may endanger human health,  
5 welfare, or the environment, and as a result of this  
6 determination, may order the Respondents to stop further  
7 implementation of this Order until the endangerment is abated.

8                                    GOVERNMENT NOT LIABLE

9                    52. The United States Government and its employees and  
10 other representatives shall not be liable for any injuries or  
11 damages to persons or property resulting from the acts or  
12 omissions of the Respondents, their employees, contractors, or  
13 other representatives caused by carrying out this Order. For the  
14 purpose of this Order, the United States Government is not a  
15 party to any contract with the Respondents.

16 THIS ORDER IS ISSUED on this 9<sup>th</sup> day of September, 1992.  
17 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

18 By: Jeff Zelikson  
19 Jeff Zelikson, Director  
20 ~~for~~ Hazardous Waste Management Division  
21 United States Environmental  
22 Protection Agency Region IX  
23

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Office of Regional Counsel  
United States Environmental Protection Agency  
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San Francisco, CA 94105

INDEX TO ADMINISTRATIVE RECORD

1. 92/07/16 Allen Biaggi to Terry Brubaker, cover letter and report
2. 92/08/22 Peter Lawrence to William Lewis, draft TAT report
3. 92/09/01 Richard Martyn to Jeff Zelikson, Action Memo